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# FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

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## NEWS RELEASE

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### FOR IMMEDIATE RELEASE

June 14, 2000  
Docket Nos. EL00-46-000, et al.

### OPEN ACCESS TRANSMISSION TARIFF CLARIFIED

The Federal Energy Regulatory Commission today clarified certain provisions of its Open Access Transmission Tariff (OATT) related to the rights of long-term firm transmission customers when their contracts expire.

Today's clarification was announced in the context of two complaints--Entergy Power Marketing Corporation v. Southwest Power Pool (SPP) and Texas-New Mexico Power Company (TNP) v. Public Service Company of New Mexico. The complaints involved the interpretation of the Right of First Refusal (ROFR) provisions contained in the transmission providers' OATT. The disputes centered on the timing of the transmission requests for continued service--how long in advance is a customer obligated to inform the transmission provider whether it will exercise its ROFR.

The Commission explained that customers invoking their rights of first refusal must follow the usual tariff procedures which require that application for firm service be filed at least 60 days in advance of commencement of service. The Commission clarified that customers must invoke their ROFR at the same time the application is tendered, i.e., at least 60 days before service is scheduled to begin.

Public Service Company of New Mexico (PSNM) interpreted the ROFR provision as extending until the final hour of an existing contract (EL00-53-000, et al.) As a result, PSNM said it could not finalize the request for service from TNP until it learned whether its current customer would exercise its ROFR. TNP complained that, because of this delay, it had to secure transmission service from another provider, at a higher cost.

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The Commission denied TNP's complaint, ruling that given the lack of clarity in the ROFR provision, PSNM's decision was not unreasonable at the time it was made.

In the second case, Entergy Marketing is in the sixth month of a one-year transmission agreement with SPP (EL00-46-000, et al.) SPP has already asked Entergy to exercise its ROFR. With today's clarification, the Commission said that Entergy is not obligated to make its determination until October 31, 2000, the deadline under the tariff for filing an application for service in the succeeding period.

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